

REMARKS

Applicants respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claim 82 has been amended. No new matter has been added. Accordingly, Claims 38-46 and 48-85 will remain pending upon entry of this Amendment and Reply.

Rejection under 35 U.S.C. § 103

On Pages 2-25 of the Office Action, Claims 38-46 and 48-85 were rejected under 35 U.S.C. § 103 over U.S. Patent Application Publication No. 2003/0013015 to Klein et al. (“Klein”) in view of various combinations of references. In particular:

- On Page 2, Claims 38, 40-44, 48-53, 55, 59-60, and 82-85 were rejected over Klein in view of U.S. Patent No. 6,033,805 to Dansui et al. (“Dansui”) and U.S. Patent Application Publication No. 2002/0064709 to Ovshinsky et al. (“Ovshinsky”);
- On Page 11, Claim 39 was rejected over Klein in view of Dansui, Ovshinsky, and U.S. Patent No. 6,616,891 to Sapru et al. (“Sapru”);
- On page 12, Claim 54 was rejected over Klein in view of Dansui, Ovshinsky and U.S. Patent No. 5,965,295 to Bando et al. (“Bando”);
- On Page 12, Claims 61-62, 64-65, 67-72, and 75-81 were rejected over Klein in view of Ovshinsky;
- On Page 18, Claim 63 was rejected over Klein in view of Ovshinsky and Dansui;
- On Page 19, Claims 45-46 were rejected over Klein in view of Dansui, Ovshinsky, and Bando;
- On Page 20, Claim 66 was rejected over Klein in view of Ovshinsky and Bando;
- On Page 21, Claims 57-58 were rejected over Klein in view of Ovshinsky and U.S. Patent Application No. 2003/0054218 to Hampden-Smith et al. (“Hampden-Smith”);
- On Page 23, Claim 56 was rejected over Klein in view of Dansui, Ovshinsky, and U.S. Patent Application No. 2002/0042000 to Bauerline (“Bauerline”);
- On page 24, Claim 73 was rejected over Klein in view of Ovshinsky and Bauerline;
- On Page 25, Claim 74 was rejected over Klein in view of Ovshinsky and Hampden-Smith.

Applicants respectfully traverse these rejections, because the cited references, whether alone or in any proper combination, fail to disclose, teach, or suggest the combinations of elements recited in independent Claims 38, 61, and 82.

For example, the cited references fail to disclose, teach, or suggest an “electrode for use in an electrochemical cell” comprising, among other elements, a “second sheet comprising a high energy density metal that is configured to act as a hydrogen source for [a] hydrogen storage material on reaction with electrolyte in the cell” and a “hydrogen electrocatalyst” as recited in independent Claim 38 (underlining for emphasis). The cited references also fail to disclose, teach, or suggest an “electrochemical cell” comprising, among other elements, a “second sheet including a high energy density metal that is configured to act as a hydrogen source for the hydrogen storage material on reaction with electrolyte in the cell” as recited in independent Claim 61. The cited references also fail to disclose, teach, or suggest a “method for producing an electrode for an electrochemical cell” comprising, among other elements, “sintering or forming with a binder a high energy density metal into a first sheet, the high energy density being configured to act as a hydrogen source for the hydrogen storage alloy on reaction with electrolyte in the cell” as recited in amended independent Claim 82 (amendment underlined).

Instead, Klein discloses a “negative electrode 2” (analogized by the Examiner to the claimed second sheet) and a “first conductive lamination 5” having a “metal layer 7” (analogized to the claimed first sheet). However, the “metal layer 7” is not discussed as being a hydrogen source, but is instead only discussed with regard to its conductive properties (e.g., “electrically conductive lamination,” “provide a contact point for conduction through the cell 1,” “[i]n order to enhance electrical contact, a conductive paste or cement such as a conductive epoxy... may be applied between... the metal layers and the respective electrode”). Klein at Par. [0048] and [0050]. Therefore, because Klein discloses its “metal layer 7” for only its conductive properties and nowhere discusses use of its layer as a hydrogen source, Klein does not disclose, teach, or suggest a sheet comprising a high energy density metal that is configured to act as a hydrogen source on reaction with electrolyte as recited in independent Claims 38 and 61.

The deficiencies of Klein are not cured by the addition of Dansui, Ovshinsky, Sapru, Bando, Hampden-Smith, and/or Bauerline in any proper combination. Dansui was cited for allegedly disclosing a “battery comprising an electrode formed of a high energy density metal with PTFE mixed in” (Office

Action at Page 3 citing Dansui at Col. 11, Line 24 and Lines 30-31); Ovshinsky was cited for allegedly disclosing an “electrode... including a hydrogen storage alloy and a hydride additive” (Office Action at Page 3 citing Par. [0035]); Sapru was cited for allegedly disclosing an “electrochemical cell including a hydrogen storage alloy and Zn and FE” (Office Action at Page 11 citing Column 1, Lines 18-19; Column 3, Lines 20-25; and Column 3, Line 44 to Column 4, Line 2); Bando was cited for allegedly disclosing a “mesh current collector pressed into the active materials” and for allegedly disclosing a “hydrogen storage material that is LaNi5 or NiNi5 type” (Office Action at Page 12 citing Column 12, Lines 8-13; Office Action at Page 20 citing Column 7, Lines 32-33); Hampden-Smith was cited for allegedly disclosing a “battery containing a Zn metal layer and a metal hydride layer separate by a separator” (Office Action at Page 21 citing Paragraphs [0318] and [0320]); Bauerline was cited for allegedly disclosing a “Ni/metal hydride cell that is coupled to a resistor” (Office Action at Page 23 citing Abstract and Paragraph [0027]). However, none of these references are cited for disclosing, or otherwise appear to disclose, teach, or suggest a sheet comprising a high energy density metal that is configured to act as a hydrogen source on reaction with electrolyte as recited in independent Claims 38, 61, and 82.

Accordingly, the cited references, whether alone or in any proper combination, fail to disclose, teach, or suggest the combination of elements recited in independent Claims 38, 61, and 82. Applicants respectfully request reconsideration and withdrawal of the rejections of independent Claims 38, 61, and 82 and their associated dependent claims.

* * *

It is submitted that each outstanding rejection to the Application has been overcome, and that the Application is in a condition for allowance. The Applicants request consideration and allowance of all pending claims.

It should also be noted that although arguments have been presented with respect to certain claims herein, the recited subject matter as well as various other subject matter and/or combinations of subject matter may be patentable for other reasons. Further, the failure to address any statement by the Examiner herein should not be interpreted as acquiescence or agreement with such statement. The Applicants expressly reserve the right to set forth additional and/or alternative reasons for patentability

and/or allowance with the present Application or in any other future proceeding, and to rebut any statement presented by the Examiner in this or other papers during prosecution of the present application.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: March 5, 2012

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